

## 1977 No. 581

## POLICE

## The Police (Discipline) (Senior Officers) Regulations 1977

<i>Made</i>	- - -	<i>28th March 1977</i>
<i>Laid before Parliament</i>		<i>6th April 1977</i>
<i>Coming into Operation</i>		<i>1st June 1977</i>

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SCHEDULE: Discipline form.

In exercise of the powers conferred on me by section 33 of the Police Act 1964(a) and section 10 of the Police Act 1976(b), and after consulting the Police Advisory Board for England and Wales in accordance with section 46(3) of the said Act of 1964 (as amended by section 4(6) of the Police Act 1969(c)) and the Police Council for the United Kingdom in accordance with section 4(4) of the said Act of 1969, I hereby make the following Regulations:—

*Citation and commencement*

1. These Regulations may be cited as the Police (Discipline) (Senior Officers) Regulations 1977 and shall come into operation on 1st June 1977.

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(a) 1964 c. 48.

(b) 1976 c. 46.

(c) 1969 c. 63.

*Revocations and transitional provisions*

2.—(1) Subject to paragraph (2), the Police (Discipline) (Deputy Chief Constables, Assistant Chief Constables and Chief Constables) Regulations 1965(a), the Police (Discipline) (Deputy Chief Constables, Assistant Chief Constables and Chief Constables) (Amendment) Regulations 1967(b) and the Police (Discipline) (Deputy Chief Constables, Assistant Chief Constables and Chief Constables) (Amendment) Regulations 1971(c) are hereby revoked.

(2) In relation to a charge preferred before 1st June 1977 against a senior officer—

- (a) nothing in these Regulations shall apply, and
- (b) the Regulations revoked by paragraph (1) shall, so far as applicable, continue to have effect.

*Regulations applicable only to senior officers*

3. These Regulations shall not apply except in relation to an offence committed, or alleged to have been committed, by a senior officer, that is to say, by a chief constable, deputy chief constable or an assistant chief constable or, in the case of the City of London and metropolitan police forces, by a member of the force in question of, or above, the rank of commander.

*Interpretation*

4.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them, that is to say:—

- “offence” or “disciplinary offence” means an offence against discipline within the meaning of Regulation 5 of the Police (Discipline) Regulations 1977(d);
- “representative” means, in relation to a senior officer, the person conducting his case in pursuance of Regulation 12(5);
- “senior officer” has the meaning assigned thereto by Regulation 3;
- “tribunal” means such a tribunal as is mentioned in Regulation 11.

(2) In these Regulations, unless the context otherwise requires, any reference to a Regulation shall be construed as a reference to a Regulation contained in these Regulations and any reference in a Regulation to a paragraph shall be construed as a reference to a paragraph of that Regulation.

(3) The Interpretation Act 1889(e) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

*Application to senior officers of the metropolitan police force*

5. In relation to an offence committed, or alleged to have been committed, by a senior officer of the metropolitan police force these Regulations shall have effect as if—

- (a) any reference therein to the police authority were a reference to the commissioner of police of the metropolis or the deputy commissioner acting in his place, and

(a) S.I. 1965/544 (1965 I, p. 1693).

(b) S.I. 1967/186 (1967 I, p. 337).

(c) S.I. 1971/134 (1971 I, p. 313).

(d) S.I. 1977/580 (1977 I, p. 1840)

(e) 1889 c. 63.

- (b) the references in Regulations 8(3), 11(2) and 12(2) to a member, officer or servant of the police authority, or of any local authority which appoints any member of the police authority, were references to a member of the metropolitan civil staffs within the meaning of section 15 of the Superannuation (Miscellaneous Provisions) Act 1967(a).

*Personal explanation*

6. Where, following the investigation of a report, allegation or complaint, it appears that a senior officer may have committed an offence, the police authority shall, unless they decide that no disciplinary proceedings need be taken, inform him in writing of the report, allegation or complaint and give him a written notice—

- (a) asking him whether or not he admits that he has committed an offence;
- (b) informing him that he is not obliged to say anything concerning the matter but that he may, if he so desires, make a written or oral statement concerning the matter to the police authority, and
- (c) warning him that if he makes such a statement it may be used in any subsequent disciplinary proceedings.

*Punishment without a hearing*

7. If the senior officer admits that he has committed an offence, the police authority may impose a punishment in accordance with Regulation 19 without the case being dealt with in accordance with Regulations 8 to 18.

*Formulation of charges*

8.—(1) This Regulation shall apply where the senior officer—

- (a) admits that he has committed an offence but the police authority do not proceed as mentioned in Regulation 7; or
- (b) does not admit that he has committed an offence but any statement he may have made to the police authority under Regulation 6 does not satisfy them that he has not committed an offence.

(2) Where this Regulation applies the police authority shall—

- (a) instruct an independent solicitor to draw up, and enter on a discipline form, the offence with which the senior officer is to be charged together with such particulars as will leave him in no doubt as to the precise offence alleged, and
- (b) cause the senior officer to be charged with that offence by being served with a copy of the discipline form.

(3) The reference in paragraph (2) to an independent solicitor is a reference to a solicitor who is not a member, officer or servant of the police authority or of any local authority which appoints any member of the police authority.

(4) A discipline form shall be in the form set out in the Schedule hereto or in a form to the like effect.

*Withdrawal of charges*

9. At any time before the beginning of the hearing of a charge, the police authority may direct that the charge be withdrawn; and, where they so direct, they shall, as soon as possible, cause—

- (a) their direction to be noted on the discipline form, and
- (b) the senior officer to be served with written notice of their direction.

*Documents to be supplied to accused*

10.—(1) Where a senior officer is charged with an offence, he shall, as soon as possible, be supplied with copies—

- (a) of any statement he may have made under Regulation 6;
- (b) of the report, allegation or complaint on which the charge is founded (or so much thereof as relates to the accused) and of any reports thereon (other than the report arising out of the investigation referred to in Regulation 6) notwithstanding that they may be confidential;
- (c) of any statement relating to the charge made by any witness to be called in support of the charge, together with the witness's name and address, and
- (d) of any statement relating to the charge made by any person, other than a witness to be called in support of the charge, in the course of the investigation referred to in Regulation 6, to the police authority or to anybody acting on their behalf, together with the person's name and address.

(2) Where the charge is founded on a report, allegation or complaint and a statement arising therefrom made by the same person, the reference in paragraph (1)(b) to the report, allegation or complaint shall, without prejudice to paragraph (1)(c) or (d), be construed as including a reference to that statement.

(3) In this Regulation any reference to a copy of a statement, report, allegation or complaint shall, where it was not made in writing, be construed as a reference to a copy of an account thereof.

*Hearing by tribunal*

11.—(1) A charge against a senior officer shall be heard by a tribunal consisting of a single person selected and appointed by the police authority from a list of persons nominated by the Lord Chancellor.

(2) To assist the tribunal on matters pertaining to the police there shall also be appointed by the police authority one or more assessors selected by that authority with the approval of the tribunal one of whom is or has been a chief officer of police, so, however, that there shall not be so appointed—

- (a) a person who is one of Her Majesty's inspectors of constabulary;
- (b) the chief officer of the force of which the accused is a member, or
- (c) a member, officer or servant of the police authority or of any local authority which appoints any member of the police authority.

*Procedure at hearing*

12.—(1) The hearing shall be in private.

(2) The case against the accused shall be presented by counsel or a solicitor, not being a member, officer or servant of the police authority or of any local authority which appoints any member of the police authority.

(3) If the accused does not admit the charge, the hearing shall proceed as though he denied the charge.

(4) Before the case against the accused is presented, the accused may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged and the tribunal, if it upholds that submission, shall determine that the charge to which the submission relates should be dismissed.

(5) The accused may conduct his case either in person or by counsel, a solicitor or a member of a police force selected by him:

Provided that if the accused is represented by a member of a police force the accused, as well as his representative, may cross-examine the witnesses called in support of the case against him.

(6) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, shall be determined by the tribunal.

(7) A verbatim record of the proceedings before the tribunal shall be taken and a transcription of the record shall be made and sent to the police authority and, if a punishment is imposed by that authority and the accused contemplates an appeal to the Secretary of State, at his request made within the period during which notice of appeal may be given, a copy thereof shall be supplied to him.

*Statements in lieu of oral evidence*

**13.—**(1) Subject to the provisions of this Regulation, the tribunal may admit evidence by way of a written statement made by a person, notwithstanding that he may not be called as a witness, so, however, that evidence shall not be admissible hereunder if it would not have been admissible had it been given orally.

(2) For the purposes hereof, a written statement purporting to be made and signed by a person and witnessed by another person shall be presumed to have been made by that person unless the contrary be shown.

(3) If either the accused or the person presenting the case against him (in this Regulation referred to as "the parties") proposes to adduce written evidence in pursuance of this Regulation at a hearing, he shall give the other party a copy of the statement at least 21 days before the date of that hearing and invite that party to agree or object, in writing, to the admission of the statement in evidence without the maker thereof being called as a witness and being available for cross-examination and, if that party within 14 days from the receipt by him of the copy of the statement has so objected, the statement shall only be admitted in evidence if the maker thereof is called and is available as aforesaid:

Provided that if the parties in writing so agree in the case of a particular statement, this paragraph shall have effect in relation to that statement as though—

(a) the reference to a period of 21 days were a reference to such shorter period as they may agree;

(b) the reference to a period of 14 days were a reference to such shorter period, expiring before the date of the hearing, as they may agree.

(4) Where, notwithstanding that the other party has not so objected and a written statement has been admitted in evidence without the maker thereof being called and being available as aforesaid, the tribunal is of the opinion that oral evidence should be given, it may request that the maker be called as a witness and, in such case, unless the maker gives oral evidence, the tribunal shall be entitled to disregard the written evidence.

(5) Nothing in this Regulation shall prejudice the admission of written evidence which would be admissible apart from the provisions thereof.

*Adjournment of hearing*

14. The tribunal may from time to time adjourn the hearing if it considers it necessary or expedient so to do for the due hearing of the case.

*Hearing in absence of accused*

15.—(1) It shall be within the discretion of the tribunal to proceed with the hearing of the case in the absence of the accused if it appears just and proper so to do.

(2) Where, owing to the absence of the accused, it is impossible to comply with any of the procedure described in Regulations 6, 8 and 10, that procedure shall be dispensed with.

*Attendance of complainant at hearing*

16.—(1) This Regulation shall apply in relation to the hearing of a charge against a senior officer where the charge is in respect of a matter or matters complained of in a complaint against him received from a member of the public.

(2) Notwithstanding anything in Regulation 12(1) but subject to paragraph (4), the tribunal shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, on the facts alleged in the charge and, if the tribunal considers it appropriate so to do on account of the age of the complainant, or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the hearing:

Provided that—

- (a) where the complainant is to be called as a witness at the hearing, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence, and
- (b) where it appears to the tribunal that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(3) Where the accused gives evidence, then, after the person presenting the case against him has had an opportunity of cross-examining him, the tribunal shall put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination and, at its discretion, may allow the complainant himself to put such questions to the accused.

(4) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt, the hearing; and if he or such

a person should behave in a disorderly or abusive manner, or otherwise misconduct himself, the tribunal may exclude him from the remainder of the hearing.

(5) In this Regulation a reference to the complainant is a reference to the originator of the complaint notwithstanding that it was transmitted by some other person or body.

#### *Tribunal's report*

**17.—**(1) The tribunal shall, as soon as possible after the hearing, submit a report to the police authority setting out—

- (a) a statement of the facts admitted or found to be proved so far as they are material to the case;
- (b) a statement as to the charges found to be proved;
- (c) if any charges are found to be proved, a recommendation as to the punishment which, subject to Regulation 19, in its opinion should be imposed therefor;
- (d) any other matter arising out of the hearing which it desires to bring to the notice of the police authority.

(2) The tribunal shall send to the accused a copy of the report.

#### *Decision of police authority*

**18.—**(1) On receipt of the report of the tribunal the police authority shall decide either to dismiss the case or, subject to Regulation 19, to impose a punishment.

(2) As soon as possible after a decision to dismiss the case or impose a punishment has been taken that decision shall be recorded on the discipline form and notified in writing to the accused.

#### *Punishment*

**19.—**(1) For the purposes of Regulation 17(1)(c) or 18(1), the punishments which may be recommended or imposed shall be—

- (a) dismissal from the force;
- (b) requirement to resign from the force as an alternative to dismissal, either forthwith or on such date as may be specified in the recommendation or decision;
- (c) reprimand.

(2) Where the question of the punishment to be imposed is being considered by the police authority under Regulation 18(1)—

- (a) they shall have regard to the accused's record of police service and may receive evidence from any witness whose evidence would, in their opinion, assist them in determining the question, and
- (b) the accused, or his representative, shall be afforded an opportunity to make oral, or if he thinks fit, written representations as respects the question or to adduce evidence relevant thereto.

(3) Regulation 12(7) shall apply to proceedings at which such evidence as is referred to in paragraph (2)(a) or (b) or such oral representations as are referred to in paragraph (2)(b) is given or are made as it applies to the proceedings before the tribunal.

*Copy of report and decision to be sent to the Secretary of State*

20. A copy of the report of the tribunal together with the decision of the police authority shall be sent by the police authority to the Secretary of State.

*Suspension*

21.—(1) When a report, allegation or complaint is received from which it appears that a senior officer may have committed a disciplinary or criminal offence, the police authority may suspend that officer from membership of the force and from his office as constable, whether or not the matter has been investigated, and in such case he shall be suspended until—

- (a) the police authority decides otherwise;
- (b) it is decided that the officer shall not be charged with a disciplinary offence, or
- (c) the officer has been so charged and either all the charges have been dismissed or a punishment has been imposed,

whichever first occurs.

(2) In case of urgency, the like power of suspension may be exercised in relation to a deputy chief constable, an assistant chief constable or a member of the City of London police force by the chief officer but, in such case, the police authority shall as soon as possible decide whether to continue the period of suspension or terminate it under paragraph (1)(a).

In this paragraph the reference to the chief officer shall be construed as including a reference to the deputy chief officer acting as chief officer.

*Expenses of hearing*

22.—(1) All the expenses of a hearing under these Regulations, including the costs of the accused, shall be defrayed out of the police fund.

(2) Any costs payable under this Regulation shall be subject to taxation in such manner as the Secretary of State may direct.

*Merlyn Rees,*  
One of Her Majesty's Principal  
Secretaries of State.

Home Office,  
Whitehall.  
28th March 1977.



Regulation 8.

SCHEDULE

DISCIPLINE FORM

CHARGE AGAINST Name.....

Rank.....

Particulars of Service.....

CHARGE

Offence of which member is accused	Particulars of alleged offence, including time, date and place	Names and addresses of witnesses in support of charge and whose statements are attached
		1. .... ..... .....
		2. .... ..... .....
		3. .... ..... .....
		4. .... ..... .....
		5. .... ..... .....
		6. .... ..... .....

POLICE AUTHORITY'S DECISIONS ON FINDING AND PUNISHMENT

The police authority has found the accused guilty/not guilty of the disciplinary offence with which he has been charged and has taken note of the accused's record of police service.

Punishment imposed.....

Date..... Signature.....

*Police authority's decisions notified to accused*

I have been notified of the police authority's decisions.

Date..... Signature of accused.....

FOR OFFICE USE ONLY

1. Copy of discipline form served on the accused. Initials.....

Date .....

2. Decisions of police authority notified in writing to accused. Initials.....

Date .....

PARTICULARS OF ANY APPEAL TO THE SECRETARY OF STATE

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## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations consolidate, with amendments, the Police (Discipline) (Deputy Chief Constables, Assistant Chief Constables and Chief Constables) Regulations 1965 and the instruments amending those Regulations, namely, the Regulations specified in Regulation 2(1). The principal changes are described below.

The present Regulations apply in relation to members of the City of London and metropolitan police forces of, or above, the rank of commander, as well as to the senior officers in relation to whom the Regulations of 1965 applied (Regulations 3 and 5).

Provision is made as respects the withdrawal of charges (Regulation 9).

With the agreement of the other party, either the accused officer or the officer presenting the case against him may adduce evidence by way of a written statement (Regulation 13).

Regulation 21 makes no provision as respects emoluments payable in respect of a period of suspension (such provision is now made in the Police Regulations 1971 (S.I. 1971/156) as amended by the Police (Amendment) Regulations 1977 (S.I. 1977/582)).

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